

SUNFLOWER USE AGREEMENT

This Sunflower Use Agreement ("**Agreement**") is made on this ____ day of _____, 2000, by and among the United States of America ("**United States**"), acting through the Department of the Army ("**Army**") and The OZ Entertainment Company, a Delaware corporation ("**OEC**") and _____ ("**Army Contractor**").

RECITAL OF FACTS

1. Since the early 1940's, the Army has operated the former Sunflower Army Ammunition Plant on a tract of land containing approximately 9,065 acres ("**Sunflower**") which is located in Johnson County, Kansas, and legally described on Exhibit "A" attached hereto and incorporated herein by reference. Sunflower is owned in fee simple by the United States.

2. The United States has agreed to sell Sunflower to KSPDC pursuant to the Conveyance Agreement.

3. KSPDC has agreed to sell Sunflower to OEC pursuant to the terms of _____ dated _____, 2000 ("**Sales Agreement**"). The conveyance of real estate from KSPDC to OEC under the Sales Agreement shall occur simultaneously with the conveyance of real estate from the United States to KSPDC under the Conveyance Agreement; therefore, the KSPDC is not a required party to this Agreement.

4. The transfer of Sunflower to OEC is contemplated to occur over a number of years as the Army completes certain responsibilities which it has agreed to carry out pursuant to Army Retained Environmental Program (AREP). As a result, Sunflower will, for some time, be contemporaneously owned, in separate parts, by the United States and OEC.

5. The Army, the United States and OEC desire to establish certain permanent cross use and reciprocal easements for the mutual benefit of the Army, the United States and OEC. In addition, they wish to set forth several issues of common concern during this period of contemporaneous ownership.

NOW THEREFORE, for the mutual benefit, advantage and protection of the Army, the United States and OEC, the parties hereby enter into this Agreement upon the terms and conditions hereinafter set forth. This Agreement is attached to and made a part of that certain Agreement between the United States Department of the Army and The Oz Entertainment Corporation for Corrective Action as to Portions of the Former Sunflower Army Ammunition Plant ("**Army Agreement**") dated _____, 2000. Unless otherwise specifically defined herein, all capitalized terms used herein shall have the respective meanings provided in the Army Agreement. All of the terms and conditions contained in the Army Agreement are hereby included in and incorporated by reference herein.

ARTICLE I - DEFINITIONS

In addition to the definitions set forth elsewhere in this Agreement, the following terms shall be defined as follows:

1.1 The term “**Army Buildings**,” as used herein, is hereby defined as the buildings described on Exhibit “B” and depicted on the Site Plan.

1.2 The term “**Army Contractor**,” as used herein, is hereby defined as the entity appointed by and contracted with by the Army to carry out the Army’s obligations under the AREP and this Agreement, as well as such entity’s successors and assigns. As of the effective date of this Agreement, Alliant Techsystems is the Army Contractor; however, in the event the Army Contractor changes through the term of this Agreement, the Army hereby agrees to immediately notify OEC, in writing, regarding the new Army Contractor.

1.3 The term “**Army Tracts**,” as used herein, is hereby defined as those Tracts of real estate owned by the United States and located in Sunflower as generally depicted on the Site Plan.

1.4 The term “**Building 264**,” as used herein, is hereby defined as the building depicted on the Site Plan as Building 264.

1.5 The term “**Easement Roads**,” as used herein, is hereby defined as the roads and bridges located on the OEC Tracts and the Army Tracts, as depicted on the Site Plan.

1.6 The term “**Excluded Area**,” as used herein, is hereby defined as the area depicted on the Site Plan and legally described on Exhibit “C” which is attached hereto and incorporated herein by reference. The parties hereby acknowledge that the area of land comprising the Excluded Area will change throughout the life of this Agreement as OEC transfers portions of the OEC Tracts to the Public Benefit Donees.

1.7 The term “**Explosive Risk**,” as used herein, is hereby defined and shall have the respective meaning provided in the AREP.

1.8 The term “**Occupant**,” as used herein, is hereby defined as the fee owner or owners of either the Army Tracts or the OEC Tracts, or any portion of or interest in said Tracts, as the case may be, their heirs, legal representatives, successors and assigns, and any person or entity who shall, from time to time, be entitled to the use and occupancy of all or any part of the Tracts under any lease, sublease, license or concession agreement, or other instrument or arrangement under which such rights of use and occupancy are required.

1.9 The term “**OEC Tracts**,” as used herein, is hereby defined as those Tracts of real estate transferred from the United States to the KSPDC and from the KSPDC to OEC and located in Sunflower as generally depicted on the Site Plan. The parties hereby acknowledge and agree that the Excluded Area is specifically excluded from the definition of the term OEC Tracts and further agree that the United States and the Army shall have no rights in connection with the Excluded Area.

1.10 The term “**Permittee**,” as used herein, is hereby defined as the employees, agents, licensees and invitees of the Occupant of either the Army Tracts or the OEC Tracts, as the case may be.

1.11 The term “**Public Benefit Donees**,” as used herein, is hereby defined as the following: Johnson County Parks and Recreation Department, The University of Kansas, Kansas State University, DeSoto School District No. 232, The City of DeSoto, and Water District No. 1.

1.12 The term “**Second Closing**,” as used herein, is hereby defined as the date upon which the United States transfers to the KSPDC and the KSPDC transfers to OEC those certain Tracts which are not part of AREP and are deemed transferable by KDHE pursuant to the Classification Agreement.

1.13 The term “**Site Plan**,” as used herein, is hereby defined as that certain Site Plan prepared by Continental Consulting Engineers, dated _____, 2000 which is attached hereto as **Exhibit “D”** and incorporated herein by reference.

1.14 The term “**Tract**” and “**Tracts**,” as used herein, are hereby defined as the Army Tracts and OEC Tracts, collectively or individually, as applicable.

1.15 The term “**Wastewater Buildings**,” as used herein, is hereby defined as the buildings and structures depicted on the Site Plan as Buildings 1000, 1001, 1010, 1020, 159-1, 722-1 and 600-1.

ARTICLE II - GRANT OF ACCESS EASEMENTS

2.1 Subject to the limitations and conditions set forth in Section 2.2 hereof, the following easements are hereby granted, declared, created and established:

(a) The United States hereby creates, grants and conveys to OEC, its successors and assigns, and all Occupants and Permittees of the OEC Tracts, irrevocable, nonexclusive perpetual rights and easements upon, over, across, and through the Army Tracts as easements appurtenant to and for the benefit of the OEC Tracts, for the purposes of vehicular and pedestrian ingress, egress, passage and traffic in order to allow OEC to exercise its rights and to complete all of its obligations under this Agreement.

(b) OEC hereby creates, grants and conveys to the Army, its successors and assigns, and all Occupants and Permittees of the Army Tracts, irrevocable, nonexclusive perpetual rights and easements upon, over, across, and through the OEC Tracts as easements appurtenant to and for the benefit of the Army Tracts, for the purposes of vehicular and pedestrian ingress, egress, passage and traffic, but only to the extent required for the Army to complete its obligations under the AREP.

2.2 It is specifically agreed that the easement rights and benefits granted in Section 2.1 above are granted upon the conditions that:

(a) Except as specifically set forth herein, such as affected areas determined to be outside a Safety Zone as described in section 11.3, free access to the Easement Roads on either the Army Tracts or the OEC Tracts, as the case may be, shall not be impeded and shall at all times be maintained as set forth herein. Notwithstanding the foregoing, free access to the Easement Roads may be temporarily but not completely obstructed or impeded for the sole purpose of making repairs or performing routine maintenance to the Easement Roads.

(b) OEC, their respective legal representatives, successors and assigns, shall have the right to sell, build upon or otherwise develop or use portions of the real property comprising the OEC Tracts, provided that any such action does not unreasonably interfere with the easements created herein for the benefit of the Army Tracts.

ARTICLE III - MAINTENANCE OF THE EASEMENT ROADS

3.1 OEC shall maintain the Easement Roads in sound structural and operating condition. Such maintenance shall include repair paving, chip and seal application, and snow removal. The Army shall reimburse OEC for its share of the costs associated with the above-described maintenance as hereinafter set forth in Article XIII. Notwithstanding anything above, to the extent additional costs are incurred by OEC in connection with the maintenance or repair of the Easement Roads due to actions taken by the Army pursuant to AREP, the Army shall be solely responsible for such costs and shall reimburse OEC for such additional costs in accordance with Article XIII.

3.2 OEC shall pay for its share of the costs associated with the above-described maintenance as hereinafter set forth in Article XIII. Notwithstanding anything above, to the extent additional costs are incurred by OEC in connection with the maintenance or repair of the Easement Roads due to actions taken by the OEC pursuant to OEC activities, OEC shall be solely responsible for such costs.

ARTICLE IV - MOWING, WEED CONTROL AND DITCH MAINTENANCE

4.1 OEC shall be responsible for all mowing and noxious weed control reasonably required to be completed on the Tracts.

4.2 OEC shall be responsible for maintaining and clearing the ditches located on the Tracts to the extent reasonably required to assure proper drainage.

4.3 The Army shall reimburse OEC for its share of the costs associated with the above-described mowing, weed control and ditch maintenance as hereinafter set forth in Article XIII.

ARTICLE V - UTILITIES

5.1 The Army shall be responsible for the installation, operation, reasonable maintenance, repair, replacement and removal of all pipes, wires, lines, conduits, mains, systems and related equipment in connection with the telephone lines and systems, the compressed air lines and systems, steam lines and systems, storm sewers, drainage lines and systems located on the Tracts. To the extent the Army is required to remove any of the above-described pipes, wires, lines, conduits, mains, systems and related equipment, such removal shall be in compliance with the Army Agreement and shall not occur without the prior written approval of the OEC, which approval may be withheld in the OEC's sole discretion.

5.2 The OEC shall be responsible for the installation, operation, maintenance, repair, replacement and removal of all pipes, wires, lines, conduits, mains, systems and related equipment in connection with the gas lines and systems, sanitary sewer lines and systems, electrical lines and systems located on the Tracts and any other utility lines or systems hereafter developed to serve the OEC Tracts, as well as the Excluded Area. To the extent OEC is required to remove any of the above-described pipes, wires, lines, conduits, mains, systems and related equipment, such removal shall be in compliance with the Army Agreement and shall not occur without the prior written approval of the Army, which approval may be withheld in the Army's sole discretion.

5.3 Each of the above-described utilities shall be made available to the Army and the OEC to the extent required for the operation of such party's Tracts. Each party shall reimburse the other party for its share of the costs associated with the installation, operation, maintenance, repair, replacement and removal of the above-described utilities as hereinafter set forth in Article XIII.

5.4 Each party shall be responsible for obtaining their own telephone, water and post-office service to the extent required. Furthermore, each party hereby agrees to grant any and all easements across the Tracts, as applicable, which may be reasonably required for such parties to obtain telephone and water service.

ARTICLE VI - SECURITY, EMERGENCY PROTECTION, HUNTING AND FISHING

6.1 The Army shall provide security services for the Tracts. The level of security services provided by the Army shall be the equivalent of such services provided by Alliant Techsystems pursuant to that certain Facility Use Agreement dated March 15, 1995, between the United States of America and Alliant Techsystems. Such security shall include, but not be limited to, the following: (i) security guard services to be provided 7 days a week, 24 hours per day; and (ii) installing, repairing, replacing and maintaining all fences required for securing the Tracts. Notwithstanding anything set forth above, OEC shall be responsible for installing new fences required for securing the Excluded Area at OEC's sole cost and expense.

6.2 The Army shall provide complete fire protection services, police protection services and medical emergency services to the Tracts. To the extent such services are provided in the future by Johnson County, Kansas, the Army shall be relieved of its obligations in connection with providing such services.

6.3 The Army shall take appropriate measures to control all hunting and fishing on the Tracts. The parties agree that any hunting or fishing would pose a significant risk, as well as increased liability, to each of the parties to this Agreement; therefore, the parties agree that only such hunting or fishing as is mutually agreed upon by the parties shall be allowed on either the OEC Tracts or the Army Tracts.

6.4 OEC shall reimburse the Army for its share of the costs associated with the above-described security as hereinafter set forth in Article XIII.

ARTICLE VII - USE OF BUILDINGS

7.1 OEC hereby agrees to allow the Army to occupy the Army Buildings. The Army shall have an irrevocable, nonexclusive perpetual right and easement to use the Army Buildings for the term of this Agreement. Furthermore, the parties hereby agree that the Army shall have the right to use the personal property contained within the Army Buildings for the term of this Agreement. The Army shall be responsible for the maintenance, repair and operation of the Army Buildings, including the personal property contained therein, as well as the costs associated therewith. The Army is not liable to repair or replace the Army Buildings if they are damaged or destroyed due to an act of God or other catastrophic acts, i.e., fire.

7.2 OEC hereby agrees to allow the Army to use the main conference room located in Building 264, subject to scheduling conflicts, on an as need basis. OEC shall be responsible for scheduling all meetings to be held in the main conference room. Scheduling shall be handled on a first come, first serve basis. OEC shall be responsible for the maintenance, repair and operation of Building 264, as well as the costs associated therewith.

7.3 The Army hereby agrees that OEC shall have the right but not the obligation to use and occupy the Wastewater Buildings commencing on the date when the Kansas Wastewater Company vacates and has completed its remediation obligations to perform the environmental clean-up of the Wastewater Buildings. Upon OEC's occupancy of the Wastewater Buildings, OEC shall be responsible for the maintenance, repair and operation of the Wastewater Buildings, as well as the costs associated therewith.

ARTICLE VIII – SELF HELP

8.1 Self Help. In the event any party fails to perform any of the provisions of this Agreement, any other party will have the right, without being obligated to do so, to enter upon the party's Tract and perform the obligations of the defaulting party hereunder; provided, however, that written notice of such intention, specifying the nature of the alleged default and the actions to be performed, has been given to the defaulting party not less than ten (10) days prior to the commencement of such action or not less than twenty-four (24) hours prior to such commencement if, in the reasonable judgment of the party giving notice, such default is of an emergency nature. During such ten (10) day or twenty-four (24) hour period, as the case may be, the defaulting party will have the right to perform or commence performance of action appropriate to remedy such default, and provided such action is diligently carried to completion, the right of such other party to perform the obligation of the defaulting party will terminate. If a

non-defaulting party elects to perform the action to have been performed by a defaulting party, on completion of such action, or from time to time, if the action is of a continuing nature, an itemized statement of the cost thereof will be submitted to the defaulting party for payment. If payment for such services is not received by the non-defaulting party within six(6) months of presenting such an itemized statement to the defaulting party, the non-defaulting party may pursue any appropriate legal remedies to collect for such services.

8.2 Notice of Default. A party will not be in default under this Agreement unless the party has received written notice specifying the nature of such default and has failed to cure or commence appropriate action to cure such default within the times herein provided.

8.3 No Termination. No breach of this Agreement will entitle any party to cancel, rescind or otherwise terminate this Agreement. The foregoing limitation will not affect, in any manner, any other right or remedy which any party might have by reason of any breach of this Agreement.

ARTICLE IX - ENVIRONMENTAL COMPLIANCE

9.1 Wastewater. OEC will provide facilities for and be responsible for disposal of domestic wastewater generated at Sunflower. The Army will deliver its domestic wastewater to OEC at the location, in the manner, and at the times reasonably designated by OEC from time to time.

9.2 Party Responsibilities. OEC shall be responsible for any/all violations of the law to include but not limited to the sole responsibility for payment of any fines, penalties and/or fees imposed on OEC associated with environment compliance or non-compliance activities conducted by OEC, its contractors and/or subcontractors.

9.3 Environmental Compliance. The Army shall comply with any/all Federal, State, local laws and regulations in order to ensure environmental compliance relative to the operations and activities of its contractors and/or subcontractors. The Army shall be responsible for any/all violations of the law to include but not limited to the sole responsibility for payment of any fines, penalties and/or fees imposed on the Army associated with environment compliance or non-compliance activities conducted by its contractors and/or subcontractors.

9.4 Unanticipated Environmental Concerns. In the event that OEC or the Army encounter any environmental compliance concerns, other than activities under the Army Agreement, the AREP or the Consent Order, OEC and the Army shall consult and use their reasonable best efforts to reach a mutually acceptable solution. If OEC or the Army encounter any unanticipated environmental compliance concerns, on the Tracts, not covered under the Army Agreement, the AREP or the Consent Order, which requires, under applicable law, immediate action to protect the public or the environment, without prior consultation with the other party, the Army or OEC shall take action, as appropriate, and may seek reimbursement, as appropriate, from the other Party.

ARTICLE X - DURATION OF AGREEMENT

10.1 Except as otherwise provided herein, this Agreement and each easement and obligation created hereunder will terminate and be of no further force or effect upon the date upon which all Army Tracts are conveyed to OEC.

ARTICLE XI - EXPLOSIVE RISK

11.1 The Army retains responsibility for Explosive Risk.

11.2 The Army and OEC agree to provide each other with prompt written notice of any newly discovered Explosive Risk in accordance with the notice provisions set forth in the AREP.

11.3 The Army shall provide OEC with thirty (30) days prior written notice of any scheduled removal of Explosive Risk at Sunflower. Furthermore, the above-described written notice shall provide detailed information regarding the areas deemed to be outside of the Safety Zones. The term "Safety Zones" shall be defined as those areas which are safely outside of the danger zone created by the Army's activities under the AREP including, but not limited to, the Army's removal of Explosive Risk. In addition to providing a written notice regarding such Safety Zones, the Army shall clearly mark the Safety Zones on the Tracts with flags or other appropriate markers.

ARTICLE XII - LIABILITY

12.1 Except as otherwise provided in Section 12.1 of the Army Agreement, OEC shall not be liable for (i) any damage to, or loss of, property located on the Army Tracts, (ii) any injury or damage incurred by Army employees, agents, visitors, licensees or other persons in or about the Tracts on behalf of the Army, or (iii) any damage or loss suffered by the Army by any cause whatsoever, including, without limiting the generality thereof, such damage or loss resulting from Explosive Risk, fire, steam, electricity, gas, water, rain, ice or snow which may flow from or into any portion of the Tracts. OEC shall not be liable to the Army, its agents, employees, invitees or visitors for any injury or damage to the Army's agents, employees, invitees or visitors, or their property, caused by the criminal or intentional misconduct, or by any act or neglect of third parties or of the Army, the Army's agents, employees, invitees or visitors. The Army covenants that no claim shall be made against OEC by the Army, or by any agent or servant of the Army, or by others claiming the right to be on the Tracts through or under the Army, for any injury, loss or damage to the Army Tracts or to any person or property occurring upon the Tracts from any cause other than the from the unlawful, improper, or negligent acts of OEC, its employees, or agents

12.2 The Army shall, to the extent allowed under the Federal Tort Claims Act, be liable to OEC for any damage to, or loss of, property located on the OEC Tracts, including personal property.

12.3 The provisions of this Article XII shall survive the expiration or sooner termination of this Agreement.

ARTICLE XIII - REIMBURSEMENT OF COSTS

13.1 All costs and expenses incurred by the Army and OEC in connection with the obligations set forth in this Agreement (but specifically excluding any costs incurred by the Army in connection with AREP) shall be prorated between the parties based upon the percentage of acreage owned in fee simple by each party at the commencement of each year during the life of this Agreement. As of the date of this Agreement, the parties hereby agree that the Army's proportionate share is One Hundred Percent (100%) and the OEC's proportionate share is Zero Percent (0%). The parties hereby acknowledge that the area of land comprising the Army Tracts and the OEC Tracts will change throughout the life of this Agreement as the Army completes its obligations under the AREP and the United States transfers certain portions of the Army Tracts to OEC. This Agreement shall apply to such transferred portions of the Army Tracts and the OEC Tracts as is appropriate on the date of transfer. Nonetheless, the above-described proportionate shares shall be applicable from the date of this Agreement up to the date of the Second Closing. At the Second Closing, the parties shall recalculate and mutually agree upon each party's proportionate share of costs which shall be applicable from the Second Closing until January 1 of the next year at which time the proportionate shares shall be recalculated. A similar recalculation shall occur each anniversary thereof.

13.2 Notwithstanding anything set forth in 13.1 above, the costs associated with the utilities described in Article V shall be prorated between the parties from the date of this Agreement based upon the following proportionate shares up to the date of the Second Closing:

	Army	OEC
Gas Lines and Systems	100%	0%
Sanitary Sewer Lines and Systems	100%	0%
Electrical Lines and Systems	100%	0%
Storm Sewers, Draining Lines and Systems	100%	0%
Compressed Air Lines and Systems	100%	0%
Steam Lines and Systems	100%	0%
Telephone Lines and Systems	100%	0%

The above-described proportionate shares shall be applicable from the date of this Agreement up to the date of the Second Closing. At the Second Closing, the parties shall recalculate and mutually agree upon each party's proportionate share of costs associated with the utilities in question. The proportionate shares calculated at the Second Closing shall be applicable until January 1 of the next year at which time the proportionate shares shall be recalculated. A similar recalculation shall occur each anniversary thereof.

13.3 Each party shall provide monthly statements to the other party setting forth a breakdown of the costs incurred, with the appropriate back-up invoices attached verifying the costs in question. Each party shall reimburse the other party their proportionate share of the monthly statement within thirty (30) days of receipt of such statement.

13.4 OEC shall provide the above-described monthly statements to the Army. The Army shall be liable in connection with the payment of such monthly statements. OEC shall pay such monthly statements directly to the Army Contractor, rather than the Army.

13.5 Notwithstanding anything set forth above, the parties hereby agree to allow each party to credit their monthly statement by the amount deemed payable by the other party during the month in question. (Example: Army owes OEC \$150.00 and OEC owes Army \$100.00. Army can credit their amount payable by \$100.00 bringing their total due OEC to \$50.00. OEC would owe Army \$0.00. Army's payment would still be due in accordance with the time frame provided in Section 13.3 above.)

ARTICLE XIV - ANTI-DEFICIENCY ACT

14.1 "Anti-Deficiency Act": Any requirement for payment or obligation of funds by the Army as established by the terms of this Agreement shall be subject to the availability of appropriated funds. No provision herein shall be interpreted to require obligation or payment of funds in violation of the Anti-Deficiency Act, 31 U.S.C. Section 1341, et seq.

ARTICLE XV - MISCELLANEOUS

15.1 Not a Public Dedication. Nothing contained herein shall, or shall be deemed to, constitute a gift or dedication of all or any portion of the Army Tracts and/or the OEC Tracts to the general public or for any public purpose whatsoever, it being the intention of the Army and OEC that this Agreement be strictly limited to and for the uses and purposes expressed herein.

15.2 Nature of Easements and Rights Granted. Unless otherwise provided herein, the easements and each and all of the rights, obligations, covenants and provisions contained herein are made for the direct benefit of the respective Tract benefited thereby, constitute covenants running with the land and shall bind every person or entity having any fee, leasehold or other interest in all or any portion of the Army Tracts and/or the OEC Tracts at any time from and after the date hereof, including the Army and OEC and their respective heirs, legal representatives, successors and assigns.

15.3 Notices. All notices required or permitted to be given pursuant to the terms of this Agreement shall be in writing and shall be deemed to have been properly given if hand delivered or sent by registered or certified mail, return receipt requested, postage prepaid, to the addresses set forth below, or to such other addresses as the parties may specify, from time to time, in writing, sent to the other party in accordance with these provisions. Notices shall be effective upon delivery, in the case of hand delivery, and otherwise, upon deposit with the United States Postal Service.

Army:	The Department of the Army HQ Industrial Operations Command Base Disposal Team AMSIO – MAI-ID, Rock Island Arsenal
-------	---

Rock Island, Illinois 61299

With a copy to:

Sunflower Army Ammunition Plant
Commanders Representative
DeSoto, Kansas _____

OEC:

The OZ Entertainment Company
11845 Olympic Boulevard
Suite 695
Los Angeles, California 90064

With a copy to:

Polsinelli, White, Vardeman & Shalton
700 West 47th Street, Suite 1000
Kansas City, Missouri 64112
Attention: Scott Young, Esq.

15.4 Waiver. Except to the extent that a party may have otherwise agreed in writing, no waiver by such party of any breach by any other party of any of its obligations, agreements or covenants hereunder shall be deemed to be a waiver of any subsequent breach of the same or of any other covenants, agreements or obligations, nor shall any forbearance by a party to seek a remedy for any breach by any other party be deemed a waiver of any rights or remedies with respect to such breach or any similar breach in the future.

15.5 Severability. In the event any provision of this Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

15.6 Captions, Etc. The captions and section numbers in this Agreement are for convenience only and shall not be deemed to be a part hereof. The pronouns used herein shall be considered as meaning the person, number and gender appropriate under the circumstances at any given time.

15.7 Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Kansas.

15.8 Modification. This Agreement or any easement, covenant or restriction set forth herein may not be amended, terminated, rescinded or otherwise modified, in whole or in part, except by a written instrument executed by the then owner and Occupant of the Army Tracts, and the then owner and Occupant of the OEC Tracts and recorded with the Johnson County, Kansas Register of Deeds and referenced to this recorded Agreement.

15.9 Counterparts. This Agreement may be executed in any number of counterparts, each of such counterpart deemed to be an original instrument, but all such counterparts together shall constitute but one agreement.

15.10 Recording Fees. Upon execution of this Agreement, OEC shall record such Agreement. OEC and the Army will split evenly all transfer and recording taxes, charges and assessments levied, assessed or incurred upon execution, delivery or recordation of this Agreement, as they become due.

15.11 Attorneys' Fees. In the event any of the parties hereto shall institute any action or proceeding against the other party relating to the provisions hereof, or any default hereunder, the prevailing party will be entitled to receive from the other party reasonable attorneys' fees and court costs to be determined by the court in which the action is brought.

15.12 Consents. Whenever the consent of a party is required by this Agreement, said consent shall not be unreasonably withheld or delayed.

15.13 No Partnership. Nothing contained in this Agreement shall make or shall be construed to make the parties hereto partners or joint venturers. Nothing contained in this Agreement shall render or be construed to render either of the parties hereto liable to any third party for debts or obligations of the other party hereto.

DRAFT
JUNE 14, 2000

DRAFT
JUNE 14, 2000

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed as of the day and year first written above.

The United States of America
By: The Department of the Army

By: _____
Print Name: _____
Title: _____

The OZ Entertainment Company

By: _____
Print Name: _____
Title: _____

Acknowledgment

STATE OF _____)
) ss.
COUNTY OF _____)

On this ____ day of _____, 2000, before me appeared _____, to me personally known, who, being by me duly sworn did say that he/she is acting on behalf of The Department of the Army.

In Testimony Whereof, I have hereunto set my hand and affixed my official seal the day and year first above written.

NOTARY PUBLIC

My Commission Expires:

[SEAL]

Acknowledgment

STATE OF _____)
) ss.
COUNTY OF _____)

On this _____ day of _____, 2000, before me appeared _____, to me personally known, who, being by me duly sworn did say that he/she is the _____ of The OZ Entertainment Company, a corporation of the State of Delaware, and that said instrument was signed on behalf of said corporation by authority of its Board of Directors, and said _____ acknowledged said instrument to be the free act and deed of said corporation.

In Testimony Whereof, I have hereunto set my hand and affixed my official seal the day and year first above written.

NOTARY PUBLIC

My Commission Expires:

[SEAL]

DRAFT
JUNE 14, 2000

EXHIBIT A

Sunflower Legal Description

DRAFT
JUNE 14, 2000

EXHIBIT B

Army Buildings

EXHIBIT C

Excluded Area

DRAFT
JUNE 14, 2000

EXHIBIT D

Site Plan